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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,939	12/13/2001	Takashi Norimatsu	PW 0277026 H7608US	2669

7590 02/22/2005

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EXAMINER

FLEARY, CAROLYN FATIMAH

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/021,939	Applicant(s) NORIMATSU, TAKASHI ET AL.	
	Examiner Carolyn F. Fleary	Art Unit 2152	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12/13/2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-21 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. A telephone call was made to ROGER R. WISE on 2/11/2005 to request an oral election to the above restriction requirement and response received by ROGER R. WISE on 2/14/2005, but did not result in an election being made.

2. Restriction to one of the following inventions is required under 35 U.S.C. §121:

I. Claims 1-6, drawn to a method and system for communicating data packets along associated time data between transmitting and receiving component and re-sequencing data packets based on timing data for output or reproduction, classified in class 709, subclass 248.

II. Claims 7-11 & 16-18, drawn to a apparatus and method having interfacing functionality through receiving input data and storing data related to input timing and preparing both input data and timing information for transmission in a communication system, classified in class 710, subclass 58.

III. Claims 12-15 & 19-21 are, drawn to a apparatus and method for receiving packets of data along with data timing information for the outputting of data based on the data timing information, classified in class 369, subclass 19.

Inventions I and II-III are related as combination and subcombinations. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination Group I as claimed does not require the particulars of the subcombination as claimed because it does not set forth the details of the subcombinations as separately claimed and the patentability of the combination does not rely on the details of the subcombinations. The subcombination Group II has separate utility such as being used as an interface that regulates (i.e. based on timing) when functions are performed (i.e. conversion of data into packets) in order to transfer data between an input source (i.e. peripheral) and external location (i.e. computer, network, digital processing system). The

Art Unit: 2152

subcombination Group III has separate utility such as receiving (i.e. recording) input and related timing/sequence information in order to reproduce the input based on timing/sequence information received (i.e. real-time, music or image play back).

3. Because these inventions are distinct for the reasons given above and because the search required for each group is different and not co-extensive for examination purpose because these groups would require different searches on PTO's classification class and subclass e.g. a) the Group I search (claims 1-6) would require use of search classified in Class 709, subclasses 248, (which would not required for the Groups II-III); b) the Group II search (claims 7-11 & 16-18) would require use of search Class 710, subclasses 58, (which would not be required for the Groups I and III), and c) the Group III search (claims 12-15 & 19-21) would require use of search Class 369, subclasses 19 (which would not be required for the Groups I-II) therefore restriction for examination purposes as indicated is proper.

4. Restriction is required under 35 U.S.C. 121 to one of the above identified patentably distinct groups of designs. A reply to this requirement must include an election of a single group for prosecution on the merits, even if this requirement is traversed, 37 CFR 1.143. Any reply that does not include election of a single group will be held non-responsive. Applicant is also requested to direct cancellation of all drawing figures and the corresponding descriptions which are directed to the non-elected.

5. Should applicant traverse this requirement on the grounds that the groups are not patentably distinct, applicant should present evidence or identify such evidence now of record showing the groups to be obvious variations of one another. If the groups are determined not to be patentably distinct and they remain in this application, any rejection of one group over prior art will apply equally to all other embodiments. See Ex parte Appeal No. 315-40, 152 USPQ 71 (Bd. App. 1965). No argument asserting patentability based on the differences between the groups will be considered once the groups have been determined to comprise a single inventive concept.

6. In view of the above requirement, action on the merits is deferred pending compliance with the requirement in accordance with Ex parte Heckman, 135 USPQ 229 (P.O. Super. Exam. 1960).

Art Unit: 2152


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn F. Fleary whose telephone number is (571) 572-7218. The examiner can normally be reached on 8:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Carolyn F Fleary
Examiner
Art Unit 2152

CFF


GLENTON B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100